

Plaintiff, AGA Medical Corporation (“AGA Medical”), for its Complaint, states as follows:

2. AGA Medical is the pioneer and global leader in the design, development, and manufacture of devices that treat structural heart defects and vascular diseases.

AGA's pioneering devices, including its line of Amplatzer® occluders, provide patients with minimally invasive treatment for life-threatening conditions. In December 2001, AGA's Amplatzer® Septal Occluder became the first device approved by the FDA for transcatheter closure of atrial septal defects. Since its founding in 1995, AGA's innovative, life-saving devices have been the dominant worldwide choice for physicians closing septal defects.

3. Upon information and belief, Defendant W. L. Gore & Associates, Inc. (“Gore”) is a Delaware limited liability company having a principal place of business at 555 Paper Mill Road, Newark, DE 19711. Upon information and belief, Defendant Gore’s registered agent in the State of Minnesota is CT Corporation System, Inc. at 100 South Fifth Street, Suite 1075, Minneapolis, MN 55402. Upon information and belief, Defendant Gore has maintained an address at 3140 Neil Armstrong Boulevard, Eagan, MN 55121 at least as recently as in or about May 2010.

Jurisdiction and Venue

4. This Complaint alleges patent infringement under the patent laws of the United States, 35 U.S.C. § 271, *et seq.*

5. The Court has subject matter jurisdiction over patent infringement claims under 28 U.S.C. §§ 1331 and 1338(a).

Count I: Claim for Patent Infringement of U.S. Patent No. 5,944,738

6. Paragraphs 1–5 are incorporated into this count by reference.

7. AGA Medical is the owner of the entire right, title, and interest in and to United States Patent No. 5,944,738 (“the ’738 patent”), which duly and legally issued to AGA Medical on August 31, 1999. A copy of the ’738 patent is attached as Exhibit A to this Complaint and is incorporated herein.

8. In violation of 35 U.S.C. § 271, Defendant Gore makes, uses, sells, offers for sale and induces others to use its occluder products, including without limitation the Gore HELEX Septal Occluder, that are covered by claims 20, 23, 25, 27, and 30 (“the Asserted Claims”) of the ’738 patent. Upon information and belief, with the specific intent of encouraging and assisting physicians’ infringing use of the Gore HELEX Septal Occluder, Gore employs representatives who provide occluder products and detailed use instructions to physicians.

9. Defendant Gore will continue to infringe and induce others to infringe the Asserted Claims of the ’738 patent unless enjoined by the Court from doing so.

10. As the world’s leading manufacturer of septal defect closure devices, AGA Medical has been irreparably harmed by Defendant Gore’s infringement of the Asserted Claims of the ’738 patent and will continue to be irreparably harmed unless Defendant Gore is enjoined from infringing the Asserted Claims of the ’738 patent.

Prayer for Relief

AGA Medical respectfully prays for the following relief:

- a. A judgment that Defendant Gore has infringed the Asserted Claims of the ’738 patent;
- b. A permanent injunction enjoining and restraining Defendant Gore, its officers, directors, agents, servants, employees, distributors, attorneys and all others acting under or through it, from either directly or indirectly infringing the Asserted Claims of the ’738 patent;

- c. A judgment and order awarding Plaintiff AGA Medical damages based on Defendant Gore's infringement of the Asserted Claims of the '738 patent; and
- d. Such other and further relief that the Court may deem just and equitable.

Demand for Jury Trial

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff AGA Medical demands a trial by jury of all issues so triable.

Dated: August 24, 2010

AGA Medical Corp.,

By its attorneys,

s/ Alan G. Carlson

Alan G. Carlson (MN Bar No. 14,801)

J. Derek Vandenburg (MN Bar No. 224,145)

R.J. Zayed (MN Bar No. 309,849)

Tara C. Norgard (MN Bar No. 307,683)

Andrew M. Mason (MN Bar No. 388,070)

**CARLSON, CASPERS, VANDENBURGH &
LINDQUIST, P.A.**

225 South Sixth Street

Suite 3200

Minneapolis, MN 55402

Phone: 612-436-9600

Fax: 612-436-9605

E-mail: acarlson@ccvl.com